



## YOUTH COMMUNITY CORRECTIONS BUREAU STANDARD OPERATING PROCEDURES

Procedure No.: YCC 60-10	Subject: <b>LEGAL CUSTODY / GUARDIANSHIP</b>
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Applicable ACA Standards:	Revision Date: 01-09-06, 11-06-06, 11-23-07, 08-17-09
Signature: /s/ Karen Duncan	Effective Date: 12-31-02
Signature: /s/ Steve Gibson	

### I. BUREAU DIRECTIVE:

This procedure will clarify the Department's power to act as a legal custodian for youth. This procedure will be reviewed annually and updated as needed.

### II. DEFINITIONS:

**Guardian** – an adult who is either the parent or another individual to whom the court has granted guardianship. Legal custody does not equate to guardianship.

**Legal Custody** - the legal status created by order of the court of competent jurisdiction that gives a person the right and duty to:

- A. have physical custody of the youth;
- B. determine with whom the youth shall live and for what period;
- C. protect, train, discipline the youth; and
- D. provide the youth with food, shelter, education, and ordinary medical care.

### III. PROCEDURES:

Juvenile Parole Officers (JPO) shall attempt to obtain parents' or guardians' authorization for, but not limited to, medical treatment, release of confidential information (refer to [YCC 1.5.6 Offender Records Access & Release](#)), or school and residential placement. If parents/guardians are not available in an emergency, JPOs must contact the Superintendent or designee of the respective facility and the Superintendent or designee may sign a release for medical treatment or other documents requiring parent/guardian signature.

- A. A JPO must obtain consent of a youth's parent/guardian in the following situations:
  1. to obtain medical treatment for the youth;
  2. to release confidential information;
  3. to place a youth at a residential treatment program; or
  4. school enrollment.

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- B. In an emergency in one of the above-listed situations, the superintendent or designee of the youth facility may give the necessary consent.
- C. A JPO may not give consent as guardian for a youth to engage in the following activities:
  - 1. marriage;
  - 2. obtaining a drivers license;
  - 3. obtaining or contesting child custody;
  - 4. giving a statement or interview with law enforcement;
  - 5. obtaining emancipation;
  - 6. living independently; and,
  - 7. enlisting in the military.

#### **IV. CLOSING:**

Questions concerning this procedure shall be addressed to the Youth Community Corrections Bureau Chief.

#### **V. REFERENCES:**

[41-5-103, MCA](#)                      [Definitions](#)  
[52-5-105, MCA](#)                      [Superintendents to Manage Facilities](#)  
[52-5-126, MCA](#)                      [Youth Parole Agreement](#)  
[52-5-127, MCA](#)                      [Control Over Youth Released Under Parole Agreement](#)

#### **VI. ATTACHMENTS:**

None